

## REMARKS/ARGUMENTS

Claims 1-4, 9-14, and 19-20 are pending in this patent application. Claims 5-8 and 15-18 have been withdrawn from consideration in the subject application due to the lack of unity. No claim has been amended.

Reconsideration of the subject application is hereby respectfully requested.

### **Overview of the Office Action**

Claims 1-3 and 11-13 have been rejected under 35 U.S.C. § 102(e) as being anticipated by USP 6,728,275 to *Stephens*.

Claims 4 and 14 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Stephens*.

Claims 9, 10, 19 and 20 have been rejected under 35 U.S.C. §103(a) as being unpatentable over *Stephens* in view of JP 60211992 to *Mizuishi*.

### **Allowability of the Claims**

In the Office Action, *Stephens* was cited as basis for the various rejections of the pending claims under 35 U.S.C. § 102(e). Based on the following, the claimed invention was made before *Stephens*' effective date. Thus, *Stephens*, does not qualify as a prior reference against the claimed invention.

To support their position in this regard, applicants respectfully submit herewith six Declarations prepared according to 37 C.F.R. § 1.131 and signed by the inventors. These Declarations establish both conception of the claimed invention prior to the reference date of *Stephens* (i.e., September 19, 2002) and reasonable due diligence from prior to the reference date to the constructive reduction to practice, i.e., the filing of German patent application no. 10261309.5 on December 27, 2002 and subsequent filing of German patent application no. 10306312.9, to which the subject patent application claims priorities.

The subject application is the U.S. national stage of International Patent Application PCT/DE03/03683 filed November 6, 2003, which claims priorities to German patent applications 10261309.5 and 10306312.9 filed December 27, 2002 and February 14, 2003, respectively. On April 14, 2008, applicants acted to perfect the priority claims to the above mentioned German patent applications by submitting copies of verified English-language translations of the two

German priority patent applications. Accordingly, the subject patent application is entitled to its German priority dates as early as December 27, 2002.


Based on applicants' prior invention date established by the attached declarations and priority claims to the German priority applications, applicants respectfully submit that *Stephens* does not qualify as a prior art reference of the claimed invention. Accordingly, claims 1-4, 9-14, and 19-20 in the subject application are allowable over *Stephens*. Withdrawal of the rejection of these claims is respectfully requested.

Moreover, because *Stephens* is removed as a prior art reference against the claimed invention, the issue of lack of unity is moot because each of the claims includes common inventive subject matter. Applicants hereby request that claims 5-8 and 15-18 be reinstated in the subject application and be allowed along with the remaining claims.

In view of the above, the present application is now in proper condition for allowance. Prompt and favorable action to this effect and early passing of this application to issue are respectfully solicited. Should the Examiner have any comments, questions, suggestions or objections, the Examiner is respectfully requested to telephone the undersigned in order to facilitate reaching a resolution of any outstanding issues.

Respectfully submitted,  
COHEN PONTANI LIEBERMAN & PAVANE LLP

By



Alfred W. Froeblich  
Reg. No. 38,887  
551 Fifth Avenue, Suite 1210  
New York, New York 10176  
(212) 687-2770

Dated: October 23, 2008